

What is the Purpose of a Board/Program?

One of the questions asked of interested persons was to describe the rationale for having a board. The usual description is that a board or program protects public health, welfare, or safety, or provides for the common good. Summarized on the first two pages here are points or questions associated with comments provided to the SJR 35 Subcommittee or the SJR 35 working group by interested persons. The table on the following pages lists whether boards or programs have statements of purpose in statute.¹

Summary of comments to the question: Why should a Board/Program exist?

Accountability -- as related to public health, safety and protection

- ✓ Provided by licensing board with a working knowledge of a profession and its ethics
- ✓ Does/can a board provide accountability for professionals who work across state lines?

Oversight of Profession -- as related to public health, safety and protection

- ✓ Provides discipline
- ✓ Provides evaluation of training
- ✓ Regulates by defining ongoing standards
- ✓ Regulates by defining scope of practice/framework for activities of professionals
- ✓ Provides assurance to public that, if a profession is licensed, there is oversight
- ✓ Focuses professionals on research and science that contribute to ongoing standards

Protection of Profession -- as related to public health, safety, or welfare (welfare = consumer choice?) Some of the responses to the question of "why a board" raised the following questions or comments:

- ✓ Are state boards a government service provided for citizens or a service to the licensed business itself? If it is for the business, then perhaps the board would be more cost-effective if it operated outside of government and in the private, competitive world.
- ✓ Some laws require licensed professionals -- if not licensed by Montana then will professionals licensed by other states get the job -- or would national licensure be OK?
- ✓ Does the state show favoritism to some professions (by licensing) over others that might have overlapping practice activities with the licensed profession?
- ✓ "Over" protection of the public unreasonably restricts access to services, which could harm a consumer because people respond differently to various services. Choice helps.

¹"Purpose" statements for some statutes seek to provide legislative intent. This is not necessarily the reason for purpose statements for boards, but the statement still should meet legislative intent.

Questions to be posed at the SJR 35 Subcommittee regarding board/program purpose:

- Should the terms commonly used in the statements of purpose be defined?
- So some, but not all, boards meet the definition of public health, welfare, or safety?
- Should a board have to demonstrate to more than one legislature that it meets the criteria for protecting public health, welfare, or safety or is providing that rationale when initially created sufficient?

The following questions were part of the sunrise statutes developed to help legislators determine whether a board met the burden of providing for the public health, safety, or welfare:

- How will the unregulated practice of the occupation or profession create a direct, immediate hazard to the public health, safety, or welfare?
- How will licensing protect the public beyond means presently available?
- How will licensing improve the quality of service of your occupation or profession and to what degree will it be improved?
- How will the public benefit from the proposed regulation of the occupation or profession?

Other questions included in the sunrise statutes that attempted to determine the purpose of a board included:

- What public support has been shown for the proposed licensure?
- To what degree (if any) will licensing facilitate clients' access to reimbursement for government assistance programs? [perhaps this also should ask whether licensee will be able to get insurance or government reimbursement]
- What occupations or professions are similar or closely related to the one proposed for licensure?
- How much will licensing increase the cost of services to the public?
- What does the occupational or professional group have in the area of an established code of ethics, a voluntary certification program, or other measures to ensure a minimum quality of service?

Other questions dealt with various aspects of professional overlap and scope of practice as well as details on issues like the projected number of licensees, proposed board membership, and investigation of complaints. See related questions from the Legislative Audit Office.

Program/Board	Statutory Purpose	Key words
Addiction Counselors Program	<p>37-35-101. Purpose. The legislature finds and declares that because the profession of addiction counseling profoundly affects the lives of people of this state, it is the purpose of this chapter to provide for the common good by ensuring the ethical, qualified, and professional practice of addiction counseling. This chapter and the rules promulgated under 37-35-103 set standards of qualification, education, training, and experience and establish professional ethics for those who seek to engage in the practice of addiction counseling as licensed addiction counselors.</p>	provide for the common good
<p>Board of Alternative Health Care</p> <p>Naturopathy 37-26-102</p> <p>Direct-entry Midwives 37-27-102</p>	<p>37-26-102. Legislative finding -- purpose. (1) The legislature finds that a significant number of Montanans choose naturopathic medicine for their health care needs and declares that naturopathic medicine is a distinct health care profession that affects the public health, safety, and welfare and contributes to public freedom of choice in health care.</p> <p>(2) The purpose of this chapter is to provide standards for the licensing and regulation of naturopathic physicians in order to protect the public health, safety, and welfare; to ensure that naturopathic health care by qualified naturopathic physicians is available to the people of Montana; and to provide a means of identifying qualified naturopathic physicians.</p> <p>37-27-102. Purpose. The legislature finds and declares that because the practice of direct-entry midwifery affects the lives of the people of this state and because some Montanans may exercise their right to give birth where and with whom they choose, it is the purpose of this chapter to provide for the common good by regulating and ensuring the qualified and professional practice of direct-entry midwifery.</p>	<p>Naturopathy: public health, safety, and welfare and freedom of choice</p> <p>Midwives: provide for the common good</p>
Board of Architects	<p>37-65-101. Purpose. It is hereby declared, as a matter of legislative policy in the state of Montana, that the practice of architecture is a privilege granted by legislative authority and is not a natural right of individuals and that it is necessary, as a matter of such policy and in the interests of the health, safety, and welfare of the people of Montana, to provide laws covering the granting of that privilege and its subsequent use, control, and regulation for the purpose of protecting the public from the unprofessional, improper, unauthorized, and unqualified practice of architecture.</p>	interests of health, safety, and welfare ... protecting the public

Program/Board	Statutory Purpose	Key words
Board of Athletics	No reference	
Athletic Agents Program	No reference	
Board of Barbers & Cosmetologists	<p>37-31-103. Purpose. It is a matter of legislative policy in the state of Montana that the practice of barbering, cosmetology, electrology, esthetics, and manicuring affects the public health, safety, and welfare and is subject to regulation and control in order to protect the public from unauthorized and unqualified practice.</p>	affects public health, safety, and welfare ... protect the public
Boilers, Blasters, Crane Operators Program	No reference	
Board of Chiropractors	No reference	
Board of Clinical Laboratory Science Practitioners	<p>37-34-102. Declaration of policy and purpose. The legislature finds and declares that because the practice of clinical laboratory science affects the public health, safety, and welfare of Montana citizens, it is the purpose of this chapter to provide for the common good by regulating and ensuring the qualified and professional practice of clinical laboratory science. The legislature further declares that because clinical laboratory science practitioners provide essential services to other health care providers by furnishing vital information that may be used in the assessment of human health and in the diagnosis, prevention, and treatment of disease or impairment, clinical laboratory tests must be performed by individuals who meet specific standards of competency.</p>	affects public health, safety, and welfare... provide for the common good
Board of Dentistry	No reference	
Electrical Board	<p>37-68-101. Purpose. The purpose of this chapter is to:</p> <ol style="list-style-type: none"> (1) protect the health and safety of the people of this state from the danger of electrically caused shocks, fires, and explosions; (2) protect property from the hazard of electrically caused fires and explosions; (3) establish a procedure for determining where and by whom electrical installations are to be made; (4) assure the public that persons making electrical installations are qualified; and (5) insure that the electrical installations and electrical products made and sold in this state meet minimum safety standards. 	protect public health and safety, protect property, assure public of qualifications

Program/Board	Statutory Purpose	Key words
Fire Prevention Program	50-3-102. Powers and duties of department regarding state fire prevention and investigation -- rules. (1) For the purpose of reducing the state's fire loss, the department shall: ...	reducing fire loss
Board of Funeral Service Crematoriums 37-19-701 Cemeteries 37-19-802	37-19-701. Purpose. The legislature finds that because the practice of crematory operation affects the lives of the people of this state and because some Montanans may exercise their right to choose cremation for themselves or a loved one, it is the purpose of this part to: (1) provide standards for the licensing and regulation of crematoriums in order to protect the public health, safety, and welfare; and (2) ensure the qualified and professional practice of crematory operation. 37-19-802. Purpose. The legislature declares that it is the public policy of this state to regulate privately owned, for-profit cemeteries to protect public health and promote financial stability through perpetual care and maintenance trusts.	right to choose cremation ... and in order to protect the public health, safety, and welfare to protect public health and promote financial stability
Board of Hearing Aid Dispensers	37-16-101. Declaration of policy. The selling, dispensing, and fitting of hearing aids is hereby declared to affect the public health and welfare and is subject to regulation and control in the public interest. This chapter shall be liberally construed to carry out the objectives and purposes hereinafter described in accordance with this declaration of policy.	affects public health and welfare
Board of Landscape Architects	37-66-102. Purpose. The purpose of this chapter is to safeguard life, health, property, and to promote the public welfare by requiring that only properly qualified persons shall be licensed to practice landscape architecture in this state.	safeguard life, health, property and promote public welfare

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<p>Board of Medical Examiners</p> <p>Physicians 37-3-101</p>	<p>37-3-101. Purpose. It is hereby declared, as a matter of legislative policy in the state of Montana, that the practice of medicine within the state of Montana is a privilege granted by the legislative authority and is not a natural right of individuals and that it is deemed necessary, as a matter of such policy and in the interests of the health, happiness, safety, and welfare of the people of Montana, to provide laws and provisions covering the granting of that privilege and its subsequent use, control, and regulation to the end that the public shall be properly protected against unprofessional, improper, unauthorized, and unqualified practice of medicine and to license competent physicians to practice medicine and thereby provide for the health needs of the people of Montana.</p> <p>37-3-202. Policy. The board shall maintain reasonable and continuing supervision and surveillance over all licensees under this chapter to ensure that such licensees maintain standards of conduct and exercise the privileges granted hereunder in the greatest public interest and to carry out the purposes and provisions of this chapter.</p>	<p>Physicians: interests of health, happiness, safety, and welfare of the people of Montana ... protection against improper, unprofessional, unauthorized, unqualified practice of medicine</p> <p>greatest public interest</p>
<p>Acupuncture 37-13-102</p>	<p>37-13-102. Legislative finding and purpose. The legislature finds and declares that the practice of acupuncture in Montana affects the public health, safety, and welfare and should therefore be subject to regulation and control in the public interest in order to protect the public from the unauthorized and unqualified practice of acupuncture and from unprofessional conduct by persons licensed to practice acupuncture.</p>	<p>Acupuncture: public health, safety, and welfare</p>
<p>Nutritionists 37-25-101</p>	<p>37-25-101. Legislative finding and purpose. The legislature finds and declares that the practice of nutrition assessment and counseling affects the public health, safety, and welfare. It is the purpose of this chapter to provide for the licensing and regulation of nutritionists in order to protect the public health, safety, and welfare, to ensure that nutritional services of high quality are available to the people of Montana, and to provide a means of identifying those qualified to practice nutrition.</p>	<p>Nutritionists: affects public health, safety, and welfare.</p>

Program/Board	Statutory Purpose	Key words
Board of Nursing	<p>37-8-101. Purpose. To safeguard life and health, a person practicing or offering to practice:</p> <p>(1) professional nursing in this state shall submit evidence that the person is qualified to practice and is licensed as provided in this chapter;</p> <p>(2) practical nursing in this state shall submit evidence that the person is qualified to practice and is licensed as provided in this chapter;</p> <p>(3) as a medication aide in this state shall submit evidence that the person is qualified to practice and is licensed as provided in this chapter.</p>	safeguard life and health
Board of Nursing Home Administrators	No reference	
Board of Occupational Therapy Practice	<p>37-24-102. Purpose. The legislature declares that it is the purpose of this chapter to provide for the regulation of persons offering occupational therapy services in order to:</p> <p>(1) safeguard the public health, safety, and welfare;</p> <p>(2) protect the public from incompetent, unscrupulous, and unauthorized persons;</p> <p>(3) assure the highest degree of professional conduct on the part of occupational therapists and occupational therapy assistants; and</p> <p>(4) assure the availability of occupational therapy services of high quality to persons in need of such services.</p>	safeguard public health, safety, and welfare... protect public from incompetent, unscrupulous, unauthorized persons... assure professional conduct and quality
Board of Optometry	<p>37-10-105. Purpose. The legislature finds that the practice of the profession of optometry is a privilege and is not a natural right of individuals. The legislature considers it necessary, in the interests of protecting the public health, safety, and welfare and in order to provide for the optometric needs of the public, to provide laws and delegate rulemaking authority regarding the granting of licenses and their subsequent use so that the public is protected from the unprofessional, improper, unauthorized, and unqualified practice of optometry.</p>	protecting public health, safety, and welfare and provide for optometric needs... protect from unprofessional, improper, unauthorized, unqualified practices
Board of Outfitters	No reference	
Board of Pharmacy	<p>37-7-102. Practice subject to regulation. The practice of pharmacy is a professional practice affecting the public health, safety, and welfare and is subject to regulation and control in the public interest.</p>	affecting public health, safety, and welfare

Program/Board	Statutory Purpose	Key words
Board of Physical Therapy Examiners	No reference	
Board of Plumbers	No reference	
Board of Private Security Patrol Officers and Investigators	37-60-103. Purpose. The purpose of this chapter is to increase the levels of integrity, competency, and performance of private security personnel and private investigators in order to safeguard the public health, safety, and welfare against illegal, improper, or incompetent actions committed by private security personnel or private investigators.	increase levels of integrity, competency, and performance... to safeguard public health, safety, and welfare
Board of Professional Engineers & Land Surveyors	37-67-301. License required to practice or offer to practice. In order to safeguard life, health, and property and to promote the public welfare, a person in either a public or private capacity practicing or offering to practice engineering or land surveying is required to submit evidence that the person is qualified to practice and is licensed as provided in this chapter. It is unlawful for a person to practice or to offer to practice in this state engineering or land surveying or to use in connection with the person's name or otherwise assume, use, or advertise any title or description tending to convey the impression that the person is a professional engineer or a professional land surveyor unless the person has been licensed under the provisions of this chapter.	safeguard life, health, and property... promote public welfare
Board of Psychologists	37-17-101. Purpose. The legislature finds and declares that the practice of psychology in Montana affects the public health, safety, and welfare and should therefore be subject to regulation and control in the public interest in order to protect the public from the unauthorized and unqualified practice of psychology and from unprofessional conduct by persons licensed to practice psychology.	affects public health, safety, and welfare... protect the public from unauthorized and unqualified practice and unprofessional conduct
Board of Public Accountants	No reference	
Board of Radiologic Technologists	37-14-101. Purpose. The legislature declares that the practice of radiologic technology affects the public health, safety, and welfare and that it is therefore necessary to regulate and control such practice in the public interest. The purpose of this chapter is to protect the public from the unprofessional, improper, unauthorized, or unqualified practice of radiologic technology.	affects public health, safety, and welfare ... protect the public from unprofessional, improper, unauthorized, unqualified practice

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Board of Real Estate Appraisers	No reference	
Board of Realty Regulation	No reference	
Board of Respiratory Care Practitioners	<p>37-28-101. Findings -- purpose. The legislature finds and declares that the practice of respiratory care in the state affects the public health, safety, and welfare. To protect the public from the unqualified practice of respiratory care or unprofessional conduct by qualified practitioners, respiratory care is subject to regulation and control. The purpose of this chapter is to regulate the practice of respiratory care. The legislature recognizes that the practice of respiratory care is a dynamic and changing art and science that is continually evolving to include new ideas and more sophisticated techniques in patient care.</p>	<p>affects public health, safety, and welfare ... protect from unqualified practice or unprofessional conduct</p>
Board of Sanitarians	No reference	
Board of Speech Language Pathologists & Audiologists	<p>37-15-101. Purpose. The legislature declares it to be a policy of this state that in order to safeguard the public health, safety, and welfare and to protect the public from being misled by incompetent, unscrupulous, and unauthorized persons and to protect the public from unprofessional conduct by qualified speech-language pathologists and audiologists and to help ensure the availability of the highest possible quality speech-language pathology and audiology services to the people of this state with communicative disorders, it is necessary to provide regulatory authority over persons offering speech-language pathology or audiology services to the public.</p>	<p>safeguard the public health, safety, and welfare ... protect the public from being misled by incompetent, unscrupulous, unauthorized persons... to protect the public from unprofessional conduct</p>

Program/Board	Statutory Purpose	Key words
<p>Board of Social Work Examiners & Professional Counselors</p> <p>Social Workers 37-22-101</p> <p>Professional Counselors 37-23-101</p>	<p>37-22-101. Purpose. The legislature finds and declares that because the profession of social work profoundly affects the lives of people of this state it is the purpose of this chapter to provide for the common good by insuring ethical, qualified, and professional practice of social work. This chapter and the rules promulgated under 37-22-201 set standards of qualification, education, training, and experience and will establish professional ethics for those who seek to engage in the practice of social work as licensed social workers.</p> <p>37-23-101. Purpose. The legislature finds and declares that because the profession of professional counseling profoundly affects the lives of people of this state, it is the purpose of this chapter to provide for the common good by ensuring ethical, qualified, and professional practice of professional counseling. This chapter and the rules promulgated by the board under 37-22-201 set standards of qualification, education, training, and experience and establish professional ethics for those who seek to engage in the practice of professional counseling as licensed professional counselors.</p>	<p>provide for the common good...</p> <p>provide for the common good...</p>
<p>Board of Veterinary Medicine</p>	<p>37-18-601. (Temporary) Purpose. The purpose of this part is to provide the most humane disposition possible of unwanted, stray, abandoned, discarded, or dangerous animals by providing for the certification of agencies and euthanasia technicians. (Terminates January 1, 2008)</p>	